

**SETTLEMENT AGREEMENT BETWEEN
MISSOURI PHARMACY BOARD
AND DAVID TACKITT**

License No. 2006025279
Complaint No. 2010-003360

Comes now David Tackitt ("Licensee") and the Missouri Pharmacy Board ("Board") and enter into this settlement agreement for the purpose of resolving the question of whether Licensee's license to practice pharmacy will be subject to discipline.

Pursuant to the terms of § 536.060, RSMo¹, the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri ("AHC") regarding cause to discipline the Licensee's license, and, additionally, the right to a disciplinary hearing before the Board under § 621.110, RSMo.

Licensee acknowledges that he understands the various rights and privileges afforded him by law, including the right to a hearing of the charges against him; the right to appear and be represented by legal counsel; the right to have all charges against him proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against him; the right to present evidence on his own behalf at the hearing; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against him and, subsequently, the right to a disciplinary hearing before the Board at which time he may present evidence in mitigation of

¹ All statutory references are to the Revised Statutes of Missouri (2000), as supplemented, unless

discipline; and the right to recover attorney's fees incurred in defending this action against his license. Being aware of these rights provided him by operation of law, Licensee knowingly and voluntarily waives each and every one of these rights and freely enters into this settlement agreement and agrees to abide by the terms of this document, as they pertain to him.

Licensee acknowledges that he has received a copy of the investigative report and other documents relied upon by the Board in determining there was cause to discipline his license, along with citations to law and/or regulations the Board believes was violated.

For the purpose of settling this dispute, Licensee stipulates that the factual allegations contained in this settlement agreement are true and stipulates with the Board that Licensee's license, numbered 2006025279, is subject to disciplinary action by the Board in accordance with the provisions of Chapter 621 and Chapter 338, RSMo.

JOINT STIPULATION OF FACT AND CONCLUSIONS OF LAW

1. Jurisdiction and venue are proper pursuant to Section 338.055, RSMo.
2. The Missouri Board of Pharmacy ("Board") is an agency of the State of Missouri created and established pursuant to Section 338.140, RSMo, for the purpose of executing and enforcing the provisions of Chapter 338, RSMo.
3. A pharmacist, in good faith, may sell and dispense controlled substances to any person only upon a prescription of a practitioner authorized by statute. *Section 195.060.1, RSMo.*

otherwise indicated.

4. David Tackitt (“Tackitt” or “Licensee”) holds Missouri pharmacist license number 2006025279.

5. Tackitt’s license was current and active at all times relevant herein.

6. At all times relevant herein, Tackitt was employed as a pharmacist-in-charge (“PIC”) at the Walgreens Pharmacy located at 900 Eastland, Jefferson City, Missouri (“the Eastland Pharmacy”) and at the Walgreens Pharmacy located at 3740 W. Truman, Jefferson City, Missouri (“the Truman Pharmacy”).

7. Beginning in April 2010 and continuing through May 2010, while employed and on duty at the Eastland Pharmacy, Tackitt billed insurance companies for prescription drugs that were represented as being sold to the consumer when in fact the consumer never picked up or received the prescription medication, in the following particulars:

PATIENT	Rx No.	DATE DISP	PATIENT ID	INSURANCE	BIN #
M.R.	51513	4-16-10	770A70532	Anthem	610575
D.W.	53062	5-11-10	44300672	MOPA	004047
D.W.	53709	5-17-10	44300672	MOPA	004047
M.M.	52827	5-4-10	970A54666	Anthem	610575
J.V.	53043	5-6-10	495783037	PERX	003858

8. While employed and on duty at the Eastland Pharmacy, Tackitt filled the same prescriptions on a daily basis one dose at a time, in order to increase the Eastland Pharmacy’s prescription volume, resulting in a financial or other benefit to himself, in violation of Walgreens policies and procedures.

9. Tackitt used discount cards to entice consumers to purchase over the counter drugs without the knowledge or approval of Walgreens management in violation Walgreens policies and procedures.

10. Tackitt price modified prescriptions to \$1.00 with the intent of obtaining future payment from a non-established third party internet discount program in violation of Walgreens policies and procedures.

11. Tackitt altered records and/or entered false and/or inaccurate information into the Pharmacy's computer system to cover up his activities.

12. The responsibilities of a pharmacist-in-charge are defined in Board regulation 20 CSR 2200-2.090(2) which states in relevant parts:

(2) The responsibilities of a pharmacist-in-charge, at a minimum, will include:

....

(E) Assurance that all procedures of the pharmacy in the handling, dispensing and recordkeeping of controlled substances are in compliance with state and federal laws;

....

(G) All labeling requirements are complied with according to section 338.059, RSMo, federal laws where required and board regulations governing auxiliary labeling of drugs and devices;

(H) The prescription files are maintained according to the requirements of this board and the other state and federal controlled substance laws and regulations;

....

(W) Assure full compliance with all state and federal drug laws and rules; . . .

(Y) Assure that all state and federal laws concerning drug distribution and control are complied with and that no violations occur that would cause a drug or device or any component thereof to become adulterated or misbranded;

....

13. Tackitt's conduct as alleged herein violates 20 CSR 2200-2.090(2).

14. At the time of the events alleged herein, Tackitt had formed a relationship of professional trust and confidence with his employer and patients in that the employer and patients relied upon the professional expertise of Tackitt to ensure that all applicable state and federal laws and regulations regarding the practice of pharmacy were followed.

15. Tackitt's conduct as alleged herein violated the employer's and patients' professional trust and confidence.

16. Tackitt's conduct as alleged herein constitutes misconduct, misrepresentation and dishonesty in the performance of the functions or duties of a licensed pharmacist in violation of section 338.055.2(5), RSMo.

17. Tackitt's conduct as alleged herein constitutes a violation of professional trust or confidence in violation of section 338.055.2(13), RSMo.

18. Cause exists to discipline Tackitt's pharmacist license for violations of section 338.055.2(5), (13), (15), RSMo, which states, in relevant part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

* * *

(5) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions

or duties of any profession licensed or regulated by this chapter;

* * *

(13) Violation of any professional trust or confidence;

* * *

(15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

* * *

JOINTLY AGREED DISCIPLINARY ORDER

1. Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of § 621.045.3, RSMo: Licensee's pharmacy license, number 2006025279 is hereby **PUBLICLY CENSURED**.

2. The parties to this Agreement understand that the Missouri Pharmacy Board will maintain this Agreement as an open record of the Board as provided in Chapters 338, 610, and 620, RSMo.

3. The terms of this Settlement Agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise provided herein, neither this settlement agreement nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

4. Licensee, together with his heirs and assigns, and his attorneys, do hereby waive, release, acquit and forever discharge the Board, its respective members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including, but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this case, its settlement, or from the negotiation or execution of this settlement agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this settlement agreement in that it survives in perpetuity even in the event that any court of law deems this settlement agreement or any portion thereof to be void or unenforceable.

5. Licensee understands that he may, either at the time the Settlement Agreement is signed by all parties, or within fifteen (15) days thereafter, submit the Agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for disciplining Licensee's license. If Licensee desires the Administrative Hearing Commission to review this Agreement, Licensee may submit his request to: **Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P. O. Box 1557, Jefferson City, Missouri 65101**

6. If Licensee requests review, this Settlement Agreement shall become effective on the date the Administrative Hearing Commission issues its order finding that the

Settlement Agreement sets forth cause for disciplining Licensee's license. If Licensee does not request review by the Administrative Hearing Commission, the Settlement Agreement goes into effect fifteen (15) days after the document is signed by the Executive Director of the Board.

LICENSEE

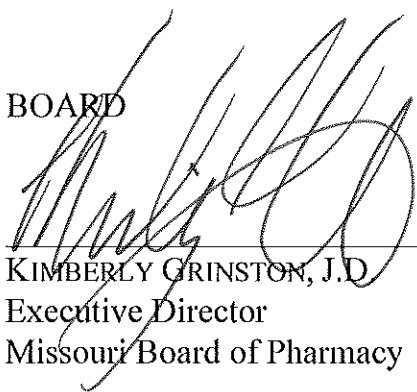


DAVID TACKITT

Date

7/22/11

BOARD



KIMBERLY GRINSTON, J.D.
Executive Director
Missouri Board of Pharmacy

Date

8-31-11

ATTORNEY FOR THE BOARD:

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